

TETON COUNTY PLANNING AND ZONING COMMISSION
DRAFT Meeting Minutes from October 18, 2016
County Commissioners Meeting Room, Driggs, ID

COMMISSIONERS PRESENT: Mr. Cleve Booker, Mr. Bruce Arnold, Mr. Chris Larson, Mr. Pete Moyer, Ms. Sarah Johnston, Ms. Marlene Robson, Mr. Jack Haddox, and Mr. David Breckenridge.

COUNTY STAFF PRESENT: Ms. Kristin Owen, Planning Administrator, Ms. Sharon Fox, Planning Services Assistant.

The meeting was called to order at 5:06 pm.

APPROVAL OF MINUTES:

MOTION: Mr. Arnold moved to approve the Minutes from the August 2, 2016. Mr. Larson seconded the motion.

VOTE: The motion was unanimously approved.

CHAIRMAN BUSINESS:

There was no Chairman Business.

ADMINISTRATIVE BUSINESS:

Ms. Owen told the Commission that due to the election on November 8th the Planning & Zoning public hearing will be held in the Courtroom on the third floor.

PUBLIC HEARING: Concept Approval for Ross Meadow Subdivision. Cleon Ross is proposing a 2-lot subdivision on his property (8.22 acres) located south of Victor. Both lots are proposed as 4.11 acres. This parcel is zoned A-2.5, in the Victor Area of Impact. This property is located in the Scenic Corridor Overlay, Wetlands and Waterways Overlay, and Flood Plain Overlay.

Ms. Owen explained that Mr. Cleon Ross is proposing a 2-lot subdivision on 8.22 acres. Each lot will be approximately 4 acres. This property is located in the Scenic Corridor Overlay, Flood Damage Prevention Overlay, and the Wetlands and Waterways Overlay. This property is also located in the Victor Area of Impact. Mr. Ross is splitting the property to sell to his children. The One Time Only Land Split is not an option on this property because the parcel is less than 20 acres, and the One Time Only option was used in the past.

Ms. Owen discussed the access next. This subdivision will have one access point, Old Jackson Highway. Highway 33 borders the property, but the applicant does not have an approved access from ITD. That portion of the property is also located in the floodplain and the Scenic Corridor. This development proposes that each lot owner would be responsible for an individual well and septic system. Fire suppression is not required because this proposal is fewer than 3 lots.

Ms. Owen reviewed the criteria for approval for a Concept subdivision application. She identified the suggested conditions of approval and said only one public comment letter has been received.

APPLICANT PRESENTATION:

Mr. Arnold Woolstenhulme with AW Engineering, representing the applicant, commented that the subdivision is being done so that Mr. Ross can sell the property to his two children. Because the parcel is located in the Victor Area of Impact they approached the City of Victor to see about tying into their water and sewer system. The City of Victor did not want to allow that due to water issues, so the parcel will have to have a well and septic system.

Ms. Johnston asked how far the lot was from the nearest public sewer service. Mr. Woolstenhulme commented the nearest public service is approximately 300 yards, but it is uphill and would require a lift station and would have to go under the highway to connect to the subdivision across the highway.

Mr. Haddox asked if any test holes would be dug to test the soil prior to the holes required for an NP evaluation. Mr. Woolstenhulme commented they have not done any perc test holes because they are not required by Idaho, but two test holes were dug near the canal area 10' deep and found no water. He commented that the wells in the area are around 40' deep and have had no problems with sub water in this area.

PUBLIC COMMENT:

Ms. Janine Jolley, daughter of the applicant, explained that her grandfather purchased the land in 1945 and in 1959 Highway 33 was constructed and split the property in half. The One Time Only lot split was used to produce two legal parcels after the highway was constructed. She commented she has been waiting for the new draft code to be approved to move forward, but since that has been delayed they decided to move forward with a subdivision application. Ms. Jolley stated they have no plans to make any changes to the property at this time, but the county is requiring the subdivision process in order for the lots to be purchased separately.

Mr. Kendall Jolley, resident at 9290 Old Jackson Hwy, commented he is asking for help to make it possible for the property to be split so that Mr. Ross's two children can each have a piece. He was also asking to avoid having to do the NP study.

Mr. Newell Kimball, resident at 580 E. 9500 S., commented he is an adjoining neighbor and wanted to speak in favor of the applicant and encouraged the Commission to approve the application.

Ms. Gloria Kimball, resident at 580 E. 9500 S., commented the land has been in the family for a very long time and the children are just trying to keep the land in the family. The land has been used as pasture land for the last 50 years and both children want to continue that use.

COMMISSION DELIBERATION:

Mr. Arnold commented he was in favor of approving the concept application. Ms. Johnston agreed with Mr. Arnold and had no concerns at the concept level. She was in favor of having the building envelope identified outside the floodplain. Mr. Larson commented he was sorry that the draft code

has not moved forward to allow a different option for a lot split, and did not have a problem with the concept plan.

MOTION: Mr. Arnold moved that having concluded that the Criteria for Approval of a Subdivision Concept Plan found in Title 9-3-2(B-4) can be satisfied with the inclusion of the following conditions of approval:

1. Identify building envelopes for both lots, outside of the Special Flood Hazard Area, on the plat.
 2. Identify the Special Flood Hazard Area on the plat.
 3. Obtain access approval from Teton County, ID Road & Bridge for Old Jackson Highway.
 4. Begin working with Eastern Idaho Public Health for approval.
 5. Conduct required studies/plans for Preliminary Review: Landscape Plan, Natural Resource Analysis, and Nutrient Pathogen Evaluation (if not waived). Cleon Ross can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,
- and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,
 - I move to APPROVE the Concept Plan for Ross Meadow Subdivision as described in the application materials submitted August 4, 2016 and as supplemented with additional applicant information attached to this staff report.

Mr. Larson seconded the motion.

VOTE: After a roll call vote the motion was unanimously approved.

Nutrient Pathogen Waiver Request: Ross Meadow Subdivision. Cleon Ross is requesting a waiver from the Nutrient Pathogen Evaluation. This Evaluation will be required for the Ross Meadow Subdivision Preliminary Approval, if Concept Approval is granted.

Ms. Owen explained that Title 9 identifies a process for a waiver if the state does not require the study but county code does. The approval process is a review by the Planning Commission with a recommendation to the BoCC, and then the BoCC will approve or deny the waiver request. Ms. Owen sent the request to the county's technical reviewer for NP studies, Jen Zung with Harmony Design, and Flint Hall from DEQ and they had a few comments. Ms. Zung said she would not recommend granting a waiver unless the applicant can show that Trail Creek is not hydraulically connected to any shallow or perched ground water that could be contaminated. Mr. Hall suggested that the developer be requested to collect ground water samples for total nitrite plus nitrate from the nearest domestic wells up gradient and down gradient to provide a basis for the assumption that they won't cause any impact. The applicant has also said they would be willing to use advance septic systems on the property if that will help with the waiver. Ms. Owen recommended the applicant look at those two comments and provide that information. Mr. Woolstenhulme has provided some of the information Ms. Zung requested, but Ms. Owen has not had time to review the information.

APPLICANT PRESENTATION:

Mr. Arnold Woolstenhulme with AW Engineering, representing the applicant, commented he did receive the request for additional information. He talked to a testing lab and he collected samples from three wells, one upstream from the property, one southeast of the property and another one

½ mile downstream from the property. He has submitted the samples but has no idea what to expect from the samples. He was not sure he could show where the nitrates are coming from with the results from the lab, or how soon he would get the results. Mr. Woolstenhulme commented he dug several test holes near Trail Creek and there was no evidence of water. He was confident that the soil would not percolate deep enough to get into the ground water to contaminate wells.

COMMISSION DELIBERATION:

Mr. Booker commented he did not walk the site but he did not feel with two houses there would be a lot of waste produced. He did not feel the houses would impact the wetlands based on the distance from the building envelopes to the creek. Ms. Owen commented the site does not show wetlands and it is the proximity to Trail Creek that runs through the site that is triggering the NP study.

Mr. Haddox commented he was not concerned with the septic system flowing into Trail Creek based on the gravelly soil in the area. He did not feel an NP study was necessary. Mr. Breckenridge felt with building envelopes located on the higher ground and based on the size of the parcel, he did not feel the NP study was necessary. Mr. Moyer agreed with Mr. Breckenridge and was surprised it could be required for two lots.

MOTION: Mr. Larson moved to forward a positive recommendation to the BoCC to waive the Nutrient Pathogen Evaluation study for Ross Meadow Subdivision with the following condition(s):

1. The applicant must collect ground water samples for total nitrite plus nitrate from the nearest domestic wells up gradient and down gradient from the proposed subdivision to provide a basis for the assumption that there will be no impact.
2. Recommend an advance septic system.
3. Building envelopes be set away from Trail Creek.

Mr. Moyer seconded the motion.

Ms. Johnston commented she felt that environmental protections are very important and the NP study is one of the environmental protections in the Code she felt was important. She did not see any overwhelming reason to waive the requirement for this application.

Mr. Arnold did not feel the advanced system should be required as a condition of approval. Mr. Larson commented he felt requiring an advanced system was a rational way to ensure there would be no impact to the ground water.

VOTE: After a roll call vote the motion failed 5-3.

MOTION: Mr. Arnold moved to forward a positive recommendation to approve the Nutrient Pathogen Study Waiver based on the hydrology of Trail Creek at that point and the test holes showing no sign of water. Ms. Robson seconded the motion.

VOTE: After a roll call vote the motion failed 4-4.

MOTION: Mr. Arnold moved to forward a positive recommendation to approve the Nutrient Pathogen Study Waiver for Ross Meadows Subdivision with the BoCC recognizing the Minutes of this discussion in their decision on the Waiver requirements.

There was no second for the motion so the motion was not voted on.

MOTION: Mr. Larson moved to forward a positive recommendation to the BoCC to waive the Nutrient Pathogen Evaluation study for Ross Meadow Subdivision with the following condition(s):

1. The applicant must collect ground water samples for total nitrite plus nitrate from the nearest domestic wells up gradient and down gradient from the proposed subdivision to provide a basis for the assumption that there will be no impact.
2. Recommend an advance septic system.
3. Building envelopes be set away from Trail Creek.

Mr. Haddox seconded the motion.

VOTE: After a roll call vote the motion passed 7-1.

CONTINUATION OF PUBLIC HEARING: A new Land Use Development Code. This is a continuation of the 10/5/2016 public hearing. The public comment period was closed on 10/5. This meeting is a continuation of the Planning Commission's discussion and deliberation.

Mr. Dave Hensel contributed to the discussion via a conference call from his location out of town. Mr. Booker commented the continuation of the draft code hearing is to discuss the options for moving forward. The options are to make a list of recommended changes and then hold another public hearing at the Planning Commission level, or make a list of recommended changes and make a recommendation to the BoCC with the list.

MOTION: Mr. Arnold moved to review the changes in further detail with the addition of the updated definitions that need to be done and continue the hearing, and hold another public hearing with the Commission at a later date before making a recommendation to the BoCC. Ms. Robson seconded the motion.

Mr. Hensel asked what kind of timeline can be expected to accomplish the review. Ms. Owen commented it would be the end of November before she would have time to work on the definitions and anything else that needed more research.

Mr. Larson commented he felt the Commission had already reached a consensus on the code and did not need another public hearing to move forward. He wanted to review the changes and then have another meeting to make the recommendation to the BoCC for approval with a list of changes agreed on. Mr. Haddox agreed with Mr. Larson.

Mr. Breckenridge commented he felt the public needed to see the document again to review the changes and see if they are ready to take ownership of the code. Mr. Moyer felt the public's opinion was important and he was in favor of taking more time to incorporate the changes and have another public hearing.

Ms. Johnston commented she did not think good planning should be political. She did not feel the process they have been following is in line with best planning practices. She was disappointed in the lack of public comment and the addressing of their concerns. Ms. Johnston wanted to have more public comment and more expert opinions sought out. She wanted to be sure that the Commission listens to the public comments and implements them into code changes. She did not

feel that so far the discussions and changes have been particularly adequate in addressing the public concerns.

Ms. Robson commented that the Commission has been working on the draft code for a really long time and the public was only given three minutes at one meeting to make a comment. She did not feel that was adequate time for the public to absorb and comment on the document. Ms. Robson wanted to have a redline version with the changes incorporated and then listen to the public comments again since it impacts a lot of people's lives. Ms. Robson wanted to have an open dialogue with the public so they could ask questions and get a response to their concerns. Ms. Spitzer commented that was a procedural issue not a legal issue. The law requires one public hearing but the Commission can have more than one if they so choose. Mr. Breckenridge commented that the open houses that were held provided the perfect opportunity for an open dialogue with Ms. Owen and several Commissioners present. Several members of the public took the time to come to those open houses.

Ms. Johnston commented she was not comfortable moving forward with a continued undefined process that is open ended. She felt the draft code could drag on forever without specific direction. She did not think the draft code should be based solely on nine Commissioners' opinions because she did not see meaningful changes after the discussions. She felt there is a large gap between the comp plan and the draft code that needs to be closed and reviewed by an expert.

Mr. Arnold felt that the changes they have approved helped with some of the definitions that were difficult to understand and clarified some of the misconceptions to make the code more straight forward. He wanted to see a redline document that the Commission can review at a work session and then have another public hearing before moving it forward. He asked about opening up the public comment period and the timing. Ms. Owen commented the Commission can reopen the public comment as a continuation of this hearing at any time, but she recommended that the public be noticed again because she was hearing that the Commission felt the public was not aware of the process. Ms. Johnston suggested that the public be allowed to submit written comments now until the close of the oral public hearing comment period at the next public hearing after the redline review.

Mr. Arnold called for a vote on his motion. The motion was restated for the Commission. Ms. Johnston wanted to amend the motion to clarify that the changes will be incorporated into a redline version of the code which will then be considered and reviewed at a work session after which another public hearing will be held.

AMENDED MOTION: Ms. Johnston moved to amend the motion to direct staff to incorporate the changes that have been discussed and agreed upon thus far into a redline version of the code which the P&Z will review at a subsequent work session and following that session another public hearing will be noticed and held on the updated document and that the public comment period is reopened as of October 18, 2016. Mr. Arnold accepted the amended motion and Ms. Robson seconded the amended motion.

VOTE: After a roll call vote the motion passed 7-2 with Mr. Larson and Mr. Hensel opposed.

SCENIC CORRIDOR DESIGN REVIEW: Aaron Cisco. Building a storage shed on his property, located at 9539 S. Highway 31 in Victor. The property is partially in the Scenic Corridor Overlay, and the building site for this shed is completely in the Scenic Corridor.

Ms. Owen commented that the applicant would not be present for the review. Mr. Cisco submitted a completed scenic corridor design review application on September 29, 2016, and he also submitted a building permit application. Before the building permit can be approved, a scenic corridor design review must occur and be approved for the structure. The proposed garage/shed will be approximately 280 feet from the outer edge of Highway 31's right of way, and this proposal complies with all required setbacks. Ms. Owen commented that the garage location was chosen based on the existing home and driveway, and he is proposing to use materials that are consistent with the existing home and non-reflective.

It was the consensus of the Commission that the application should be approved.

MOTION: Mr. Arnold moved that having found that the proposed development for Aaron Cisco is consistent with the Teton County development ordinances, specifically Title 8-5-2-D, and Idaho State Statute, I move to approve the scenic corridor permit with the following conditions of approval:

1. Must comply with all federal, state, and local regulations.
2. All structures require a Teton County Building Permit and must comply with the Teton County Building Code.
3. If outdoor lighting is desired, it must comply with Teton County Code lighting requirements.
4. Building materials shall not be highly reflective materials.

Mr. Moyer seconded the motion.

VOTE: After a roll call vote the motion was unanimously approved.

MOTION: Mr. Larson moved to adjourn. Mr. Arnold seconded the motion.

VOTE: The motion was unanimously approved.

The meeting was adjourned at 7:20 pm.

Respectfully submitted,
Sharon Fox, Scribe

Cleve Booker, Vice-Chairman

Sharon Fox, Scribe